

EXHIBIT 1

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re Flint Water Cases,

Judith E. Levy
United States District Judge

Consolidated Docket No.
16-cv-10444

DEBORAH SAPOLIN, as
Personal Representative of
THE ESTATE OF
MARGARET A. BACON,

Plaintiff,

v

RICHARD SNYDER, *et al*,

Defendants.

**Individual Docket No.
5:18-cv-10348-JEL-MKM**

Previous E.D. Case No. 16-cv-11157

Genesee County Circuit Court

**PLAINTIFF'S PROPOSED SECOND AMENDED SHORT FORM
COMPLAINT
AND RELIANCE ON JURY DEMAND**

NOW COMES Plaintiff, Deborah Sapolin, as Personal Representative of the Estate of Margaret A. Bacon, and hereby incorporates by reference Plaintiffs' Amended Master Long Form Complaint and Jury Demand filed in *In Re Flint Water Cases* in the United States District Court for the Eastern District of Michigan, filed as Docket No. 185-2 in companion

case *Walters, et al v. City of Flint, et al* (17-cv-10164). For her Second Amended Short-Form Complaint, Plaintiff adopts claims from the Amended Master Long Form Complaint referenced herein, pursuant to the Court's Order on May 21, 2020. Plaintiff has selected and indicated by checking boxes where requested, parties and claims specific to this case.

Plaintiff, by and through her counsel, alleges as follows:

I. DEFENDANTS

1. Plaintiff(s) name the following Defendants in this action:

- ☒ Governor Richard D. Snyder
- ☒ The City of Flint, a municipal corporation
- ☒ Darnell Earley
- ☒ Howard Croft
- ☒ Michael Glasgow
- ☒ Gerald Ambrose
- ☐ Jeff Wright
- ☐ Dayne Walling
- ☒ Daugherty Johnson
- ☐ Liane Shekter Smith
- ☐ Daniel Wyant
- ☒ Stephen Busch
- ☒ Patrick Cook
- ☒ Michael Prysby
- ☒ Bradley Wurfel
- ☐ Nick Lyon
- ☒ Adam Rosenthal
- ☒ Andy Dillon
- ☒ Lockwood Andrews & Newnam, P.C.
- ☒ Lockwood Andrews & Newnam, Inc.
- ☒ Leo A. Daly Company
- ☒ Rowe Professional Services Company, f/k/a Rowe Engineering, Inc.
- ☐ Veolia LLC
- ☐ Veolia Inc.
- ☐ Veolia Water, LLC
- ☐ Veolia Environmental, S.A.

2. The above-named defendant(s) are sued in those capacities outlined in the First Amended Master Long Form Complaint. They are named jointly and severally.

II. PLAINTIFFS

3. Plaintiff: Deborah Sapolin, as Personal Representative of the Estate of Margaret A. Bacon

4. If brought on behalf of Plaintiff by another person, capacity (*i.e.*, administrator, executor, guardian, conservator, etc.): Deborah Sapolin, as Personal Representative of the Estate of Margaret A. Bacon

5. Plaintiff's State of Residence: Michigan

III. FLINT WATER EXPOSURE

6. (If alleging personal injury) Margaret A. Bacon, deceased, lived in Flint, Michigan from approximately 1944 until 2017. If more than one Plaintiff is named on this Short Form Complaint, list each additional Plaintiff's period of residency in Flint on an additional sheet, or check the box below if the period of residency is the same for all named Plaintiffs.

☒ Period of Residency in Flint is the same for all named Plaintiffs.

7. (If alleging property damage) Margaret A. Bacon, deceased, owned property in Flint, Michigan from approximately 2001 until 2017 at the following address: 2730 Golfside Lane, Flint, Michigan, 48504. If Plaintiff(s) owned more than one property in Flint, list each additional property, as well as the dates the property was owned, on an additional sheet. For each property, state which plaintiff owned which property.

8. (If alleging economic loss) Plaintiff(s) owned a business in Flint, Michigan from approximately N/A until N/A at the following address: N/A . If Plaintiff(s) owned more than one business in Flint, list each additional business, as well as the dates the business was owned, on an additional sheet.

IV. INJURIES

9. Plaintiff alleges the following injury(ies) (and subcategory of injur(ies) as a result of use of and/or exposure to Flint River Water:

- ☒ Personal injury
 - ☒ Legionella
 - ☒ Other - Survival and Wrongful Death Claims
- ☐ Property Damage

V. CLAIMS/COUNTS

10. The following claim(s) asserted in the Master Long Form Complaint, and the allegations with regard thereto in the Master Long Form Complaint, are adopted in this Short Form Complaint by reference:

- ☒ Count I: 42 U.S.C. §1983 – 14th Amendment, Substantive Due Process – State Created Danger
- ☒ Count II: 42 U.S.C. §1983 – 14th Amendment, Substantive Due Process – Bodily Integrity
- ☐ Count III: 42 U.S.C. §1983 – 5th and 14th Amendments, Equal Protection of the Law – Race Based
- ☒ Count IV: 42 U.S.C. §1983 – 5th and 14th Amendments, Equal Protection of the Law – Wealth Based
- ☐ Count V: 42 U.S.C. §1985(3) – Invidious Racial Animus
- ☐ Count VI: MCL 37.2302 – Violation of Public Service Provisions of ELCRA
- ☐ Count VII: Gross Negligence
- ☒ Count VIII: Punitive Damages
- ☒ Count IX: Professional Negligence (LAN PC, LAN Inc. and LAD)
- ☒ Count X: Professional Negligence (Rowe)

- ☐ Count XI: Professional Negligence (Veolia LLC, Veolia Inc., Veolia Water and Veolia S.A.)
- ☐ Count XII: Fraud (Veolia LLC, Veolia Inc., Veolia Water and Veolia S.A.) If alleging fraud, state with specificity the allegations supporting the cause of action (use an additional sheet if necessary):
- ☒ Count XIII: Other - Survival and Wrongful Death, MCL 600.2922 (All Defendants)

11. Unless otherwise noted, the above-checked Claims/Counts are only applicable to those Defendants against whom each Claim/Count referenced in the Master Long Form Complaint applies to therein.

12. If additional claims against the Defendants identified in the Master Long Form Complaint are alleged in paragraph 10, the facts supporting these allegations must be pleaded. Plaintiff asserts the following factual allegations against the Defendants identified in the Master Long Form Complaint:

- A. As a direct and proximate result of using Flint public water in her activities of daily living, Plaintiff's decedent, Margaret A. Bacon, contracted Legionella pneumonia on or about September 12, 2014 in her home.
- B. Plaintiff's decedent required significant medical treatment for her Legionella pneumonia, including, but not limited to, lengthy hospitalizations during which she was intubated and placed on mechanical ventilation and treated with intravenous antibiotics.
- C. As a direct and proximate result of Plaintiff Margaret Bacon's Legionella pneumonia and lengthy hospitalizations, mechanical ventilation, and severe infection to lungs and other parts of the body, Margaret A. Bacon's ability to

oxygenate and heal from other illnesses that were either pre-existing, or contracted after she contracted Legionella sickness, was severely compromised.

- D. After contracting Legionella pneumonia and sustaining associated damage to the lungs and immune system, Plaintiff's decedent, Margaret A. Bacon, failed to make a full recovery from her Legionella pneumonia.
- E. Plaintiff's decedent, Margaret A. Bacon, died on April 10, 2018, from acute hypoxic respiratory failure with subacute pulmonary embolism, as a result of contracting Legionella pneumonia.
- F. The conduct of Defendants, as described in the First Amended Master Long Form Complaint and Plaintiff's Short Form Complaint filed in the Genesee County Circuit Court on November 9, 2017, was the proximate cause of Margaret A. Bacon contracting Legionella pneumonia resulting in her death.
- G. Plaintiff, as Personal Representative of the Estate of Margaret A. Bacon, Deceased, is entitled to the following damages as a result of Defendants' conduct:
 - i. All damages recoverable pursuant to Michigan's wrongful death statute, MCL 600.2922;
 - ii. Damages for pain and suffering sustained by decedent Margaret A. Bacon before her death on April 10, 2018;
 - iii. Loss of past and future earnings;

- iv. Funeral and burial expenses;
- v. Medical and hospital expenses;
- vi. Damages for the loss of society and companionship suffered by Margaret A. Bacon's family members.

13. Plaintiff asserts the following additional claims and factual allegations against other Defendants (must name defendant and its alleged citizenship): N/A.

14. If additional Defendants are identified in paragraph 13, the facts supporting these allegations must be pleaded. Plaintiff asserts the following factual allegations against the Defendants identified paragraph 13: N/A.

WHEREFORE, Plaintiff, Deborah Sapolin, as the Personal Representative of the Estate of Margaret A. Bacon, prays for relief as set forth above and in Plaintiffs' First Amended Master Long Form Complaint in *In Re Flint Water Cases* in the United States District Court for the Eastern District of Michigan.

Respectfully submitted:

**SINAS, DRAMIS, LARKIN
GRAVES & WALDMAN, P.C.**

By: /s/James F. Graves
James F. Graves (P14288)
Jonathon K. Homa (P81518)
George T. Sinas (P25643)
Stephen H. Sinas (P71039)
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Lansing, MI 48911
Phone: (517) 394-7500

Dated: July 7, 2020

RELIANCE ON JURY DEMAND

NOW COMES Plaintiff, Deborah Sapolin, as the Personal Representative of the Estate of Margaret A. Bacon, and hereby relies on the demand for jury trial previously asserted in the above-captioned action.

Respectfully submitted:

**SINAS, DRAMIS, LARKIN,
GRAVES & WALDMAN, P.C.**

By: /s/James F. Graves
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Dated: July 7, 2020